IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.453 OF 2004
IN
COMPANY PETITION NO.661 OF 1990

M/s. Atlantic Advertising Co. ..Petitioner.
And
Indian Bank. ..Applicant.
And
Official Liquidator. ..Respondent.

Mr.R.Shah i/by Pandya Gandhi & Co. for the Applicant.

Mr.S.C. Gupta, O.L. present.

CORAM : A.M. KHANWILKAR, J.
DATED : 8TH JULY, 2005

P.C.:

1. Heard counsel for the applicant and the Official Liquidator.

2. According to the Official Liquidator, claim of the applicant cannot be considered because the applicant is also pursuing remedy by way of suit against the company, which indicates that the applicant prays to stand out side winding up of the said proceeding. The counsel for the applicant has however, clarified stand of the applicant. He submits that the applicant has no intention to proceed against the company in the suit but the suit will be confined against the directors who were

guarantors and particularly, for the amount which is difference between the claim accepted by the Official Liquidator. He submits that the applicant will take steps to delete the respondent company in liquidation from the array of defendants in the suit filed by the applicant within two weeks from today. That statement is accepted. Hence, this application is disposed of with directions to the Official Liquidator, on the above assurance given by the applicant. Official Liquidator to consider the claim of the applicant as against the company along with other creditors, only if applicant deletes the respondent company from the array of defendants in the suit filed by the applicant against the company. It is once again made clear, that the suit against the guarantors i.e. Ex-Directors as well as others will have to proceed on its own merits, in accordance with law. Official Liquidator to consider the adjudication claim of the applicant within six weeks from the date of deletion of company from the array of defendants, in the suit filed by the applicant from the date of communication of development to the Official Liquidator by the applicant. which ever is later.

(A.M. KHANWILKAR,J.)